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LAHORE, THURSDAY, FEBRUARY 14, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 1st February, 1889, and is hereby promulgated for general information :—

ACT No. I OF 1889.

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons of pieces of metal for use as money;

And whereas it is also expedient to amend section 28 of the Indian Penal Code; 1860.

It is hereby enacted as follows :—

Title, extent and commencement.

1. (1) This Act may be called the Metal Tokens Act, 1889.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Definition.

2. In this Act "issue" means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878. 1878.

Prohibition of making by private persons of pieces of metal to be used as money.

3. No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

Penalty for unlawful making, issue or possession of such pieces.

4. (1) In either of the following cases, namely :—

(a) if any person makes in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(b) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,—

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both; or,

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

Cognizance of offences under the last foregoing section.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

X of 1882. (*2*) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Subdivisional Magistrate, without the previous sanction of the District Magistrate or Subdivisional Magistrate.

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

VIII of 1878. **6.** If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (*3*) of section 4 and sub-section (*1*) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

Addition to section 98, Act X, 1882.

X of 1882. **7.** To section 98 of the Code of Criminal Procedure, 1882, the following shall be added, namely :—

"The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

I of 1889. (*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,

(*b*) pieces of metal suspected to have been so made or to have been so brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act."

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

8. (*1*) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

(*2*) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

Amendment of section 28 of the Indian Penal Code.

9. For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely :—

"*Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

"*Explanation 2.*—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised."

S. HARVEY JAMES,
Secretary to the Government of India.

The following Report of the Select Committee on the Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th January, 1889:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Metal Tokens Bill was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as revised by us annexed thereto.

From Mr. P. R. Desai, Pleader, District Court, Tanna, dated 25th February, 1888 [Paper No. 1].

Opinion by the Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K. C. I. E. [Paper No. 2].

Office Memorandum by Government of India, Department of Finance and Commerce, No. 1686, dated 29th March, 1888, and enclosure [Papers No. 3].

From Secretary to Chief Commissioner, Assam, No. 760, dated 12th April, 1888 [Paper No. 4].

From Secretary to Chief Commissioner, Coorg, No. 711—468, dated 16th April, 1888, and enclosure [Papers No. 5].

From Chief Commissioner, Ajmere-Merwára, No. 395—690, dated 24th April, 1888 [Paper No. 6].

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 486—17 S. S., dated 20th April, 1888, and enclosure [Papers No. 7].

From Secretary for Berar to Resident, Hyderabad, No. 145 G., dated 26th April, 1888, and enclosure [Papers No. 8].

From Chief Secretary to Government, Madras, No. 990 B., dated 24th April, 1888, and enclosures [Papers No. 9].

From Secretary to Government, Bengal, No. 52 T. F., dated 2nd June, 1888, and enclosures [Papers No. 10].

From Chief Secretary to Government, Bombay, No. 3753, dated 9th June, 1888, and enclosures [Papers No. 11].

From Registrar, High Court, Calcutta, No. 1496, dated 29th June, 1888 [Paper No. 12].

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3803—191, dated 5th July, 1888, and enclosures [Papers No. 13].

From Secretary to Government, North-Western Provinces and Oudh, No. 1594—VI-110 B., dated 21st July, 1888, and enclosures [Papers No. 14].

Telegram from Secretary to Government, Punjab, dated 9th January, 1889.

2. We have amended the definition of "issue" in section 2, so as to make it clear that the Act is not intended to apply to tokens now in circulation.

3. From section 3, sub-section (*1*) (section 3 of the revised Bill), we have omitted the words "or likely". Section 4, sub-section (*3*), of the revised Bill appears to us to render the retention of those words unnecessary.

4. We have proposed, in section 4 of the revised Bill, that an attempt to "issue", and possession with intent to "issue", any pieces of metal made in British India in contravention of the Act or imported into British India in contravention of any prohibition under the Sea Customs Act, 1878, shall be offences punishable in the same manner as the offence of issuing such pieces.

5. For section 3, sub-section (*5*), of the Bill as introduced we have proposed to substitute a section (section 7 of the revised Bill) applying to the pieces of metal to which the Bill mainly relates the provisions of section 98 of the Code of Criminal Procedure, 1882, respecting counterfeit coin.

6. For section 3, sub-section (*6*), of the Bill as introduced we have substituted a section (section 5 of the revised Bill) providing that no offence relating in any way to the "issue" of unauthorised pieces of metal for use as money is to be cognizable by the police or, without the previous sanction of the District Magistrate or Subdivisional Magistrate, by any Magistrate except a District Magistrate or Subdivisional Magistrate.

7. In section 4 we have reduced the maximum period of imprisonment to one year for a first offence, and to three years after a previous conviction.

8. We have added to section 5 of the Bill as introduced (section 8 of the revised Bill) a clause making it an offence for any person on behalf of a railway-administration or local authority, or on behalf of the lessee of any tolls leviable by such an administration or authority, to receive as money any piece of metal which is not coin as defined in the Indian Penal Code.

9. As regards section 6 of the Bill as introduced (section 9 of the revised Bill) we agree with Mr. R. J. Crosthwaite, the Judicial Commissioner of the Central Provinces, in thinking that the effect of that section might be to weaken the existing law as to Queen's coin, and we think that the purposes not only of section 231 but also of other sections of the Indian Penal Code will be better served by the addition to the definition of "counterfeit", in section 28 of that Code, of an *Explanation* applicable as well to coin as to

every other thing with reference to which the word "counterfeit" is used in the Code.

10. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	18th February, 1888.
Fort Saint George Gazette	28th February, 1888.
Bombay Government Gazette	23rd February, 1888.
Calcutta Gazette	22nd February, 1888.
North-Western Provinces and Oudh Government Gazette	25th February, 1888.
Punjab Government Gazette	1st March, 1888.
Central Provinces Gazette	25th February, 1888.
Burma Gazette	10th March, 1888.
Assam Gazette	10th March, 1888.
Coorg District Gazette	2nd April, 1888.
Sindh Official Gazette	22nd March, 1888.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Kanarese	27th March, 1888.
	Malayalam	10th April, 1888.
	Tamil	10th April, 1888.
	Telugu	17th April, 1888.
	Hindustani	24th April, 1888.
Bombay	Maráthi	5th April, 1888.
	Kanarese	5th April, 1888.
	Gujárathi	12th April, 1888.
Bengal	Bengali	20th March, 1888.
	Uriya	29th March, 1888.
	Hindi	10th April, 1888.
Central Provinces	Maráthi	18th April, 1888.
	Hindi	23rd May, 1888.
Burma	Burmese	31st March, 1888.
Assam	Bengali	14th April, 1888.
Coorg	Kanarese	1st May, 1888.
Sindh	Sindhi	22nd March, 1888.

11. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

D. BARBOUR.
ANDREW R. SCOBLE.
ROBT. STEEL.
FRED. M. HALLIDAY.
ANANDAGAJAPATI RAZU.

The 17th January, 1889.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 28, 1889.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 15th February, 1889, and is hereby promulgated for general information:—

ACT NO. II OF 1889.

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Measures of Length Act, 1889.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on such day as the Governor General in Council may appoint in this behalf.

Standard yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

Measure for determining length of standard yard.

3. A copy, approved by the Governor General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

Standard foot and inch.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.

Presumption in favour of accuracy of certified measures.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Inspection of certified measures by the public.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Certified measures to be kept by authorities required by existing enactments to keep measures of length.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

Ben. Act IV of 1866. Ben. Act II of 1888. Mad. Act III of 1888. Bom. Act III of 1888.

S. HARVEY JAMES,

Secretary to the Government of India.

The following Report of the Select Committee on the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st February, 1889 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

From Secretary to Chief Commissioner, Assam, No. 784, dated 14th April, 1888 [Paper No. 1].

From Registrar, High Court, Calcutta, No. 984, dated 26th April, 1888 [Paper No. 2].

From Chief Commissioner, Ajmere-Merwára, No. 510—690, dated 21st May, 1888, and enclosures [Papers No. 3].

From Officiating Chief Secretary to Chief Commissioner, Burma, No. 585—5 N., dated 22nd May, 1888, and enclosure [Papers No. 4].

From Secretary to Government, North-Western Provinces and Oudh, No. 1044—VI-95 A., dated 23rd May, 1888, and enclosures [Papers No. 5].

From Secretary to Government, Bengal, No. 947, dated 30th May, 1888, and enclosures [Papers No. 6].

From Secretary for Berar to Resident, Hyderabad, No. 197 G., dated 28th May, 1888 [Paper No. 7].

From Secretary to Chief Commissioner, Coorg, No. 6, dated 22nd May, 1888, and enclosures [Papers No. 8].

From Chief Secretary to Government, Bombay, No. 1937, dated 6th June, 1888 [Paper No. 9].

Endorsement by Under Secretary to Government of India, Home Department, No. 1655, dated 12th June, 1888, and enclosures [Papers No. 10].

From Secretary to Government, North-Western Provinces and Oudh, No. 1352—VI-95 A., dated 22nd June, 1888, and enclosure [Papers No. 11].

From Officiating Junior Secretary to Chief Commissioner, Central Provinces, No. 744S., dated 20th June, 1888 [Paper No. 12].

Endorsement by Under Secretary to Government of India, Home Department, No. 1833, dated 4th July, 1888, and enclosures [Papers No. 13].

From Officiating Secretary to Government, Punjab, No. 206 S., dated 7th July, 1888, and enclosures [Papers No. 14].

2. We understand that the copy of the imperial standard which has been ordered from England has not yet been received. We have therefore proposed that it shall be left to the Governor General in Council to bring the Act into force by executive order as soon as circumstances admit.

3. In section 5 we have extended the presumption in favour of the correctness of certified measures, and in section 7 have substituted references to the Calcutta and Bombay Municipalities and Madras Police Acts of last year for the references to the enactments which have been or are about to be superseded by them.

4. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	17th March, 1888.
Fort Saint George Gazette	27th March, 1888.
Bombay Government Gazette	22nd March, 1888.
Calcutta Gazette	21st March, 1888.
North-Western Provinces and Oudh Government Gazette	24th March, 1888.
Punjab Government Gazette	29th March, 1888.
Central Provinces Gazette	24th March, 26th May, and 2nd and 9th June, 1888.
Burma Gazette	7th April, 1888.
Assam Gazette	7th April, 1888.
Coorg District Gazette	2nd April, 1888.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Kanarese	1st May, 1888.
	Malayalam	8th May, 1888
	Tamil	15th May, 1888.
	Telugu	15th May, 1888.
	Hindustani	15th May, 1888.
Bombay	Gujaráthi	17th May, 1888.
	Kanarese	17th May, 1888.
	Maráthi	24th May, 1888.
Bengal	Bengali	3rd April, 1888.
	Uriya	5th April, 1888.
	Hindi	17th April, 1888.
North-Western Provinces and Oudh	Urdu	12th May, 1888.
Punjab	Urdu	10th May, 1888.
Central Provinces	Hindi	23rd May, 1888.
	Maráthi	6th and 13th June, 1888.
Burma	Burmese	21st April, 1888.

5. We do not think that the measure has been so altered as to require re-publicati and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.
D. BARBOUR.
ROBT. STEEL.
DINSHAW MANOCKJEE PETIT.
DOORGA CHURN LAW.

The 28th January, 1889.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

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LAHORE, THURSDAY, MARCH 14, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 1st March, 1889, and is hereby promulgated for general information :—

ACT NO. IV OF 1889.

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Indian Merchandise Marks Act, 1889.

(*2*) It extends to the whole of British India ; and, subject to the provision of the last section of this Act,

(*3*) It shall come into force on the first day of April, 1889.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "trade mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act :

(*2*) "trade description" means any description, statement or other indication, direct or indirect,—

(*a*) as to the number, quantity, measure, gauge or weight of any goods, or

(*b*) as to the place or country in which, or the time at which, any goods were made or produced, or

(*c*) as to the mode of manufacturing or producing any goods, or

(*d*) as to the material of which any goods are composed, or

(*e*) as to any goods being the subject of an existing patent, privilege or copyright ;

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act :

(*3*) "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act :

(*4*) "goods" means anything which is the subject of trade or manufacture : and

(*5*) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely :— XLV of 18[60]

"*Of Trade, Property and Other Marks.*

Trade mark.

"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the

purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

46 & 47 Vict., c. 57.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

Using a false property mark.

"482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for using a false trade mark or property mark.

"483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a trade mark or property mark used by another.

"484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Counterfeiting a mark used by a public servant.

"485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making or possession of any instrument for counterfeiting a trade mark or property mark.

"486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

Selling goods marked with a counterfeit trade mark or property mark.

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

"487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

"488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Punishment for making use of any such false mark.

"489. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Tampering with property mark with intent to cause injury.

Trade Descriptions.

4. (*1*) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe

Provisions supplemental to the definition of false trade description.

that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

(*a*) not being a trade mark, or part of a trade mark, and

(*b*) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description and not having authorised the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application of trade descriptions.

5. (1) A person shall be deemed to apply a trade description to goods who—

(*a*) applies it to the goods themselves, or

(*b*) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(*c*) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or

(*d*) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connexion with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any band or ticket.

Penalty for applying a false trade description.

6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in the case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Penalty for selling goods to which a false trade description is applied.

7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the Law relating to Marks and Descriptions.

Unintentional contravention of the law relating to marks and descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves— XLV of 1860.

(*a*) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(*b*) that he took reasonable precautions against committing the offence charged, and

(*c*) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and

(*d*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

Forfeiture of goods.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for XLV of 1860.

sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

Amendment of section 18, Act VIII of 1878.

VIII of 1878.

10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

"(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889:

XLV of 1860.

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) that place and the country in which it is situated are in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark:

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely:—

"(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or,

(iii) having been manufactured within those limits, have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1881. XV

Addition of a section after section 19, Act VIII of 1878.

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely:— VII

"19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes."

Stamping of Length of Piece-goods manufactured in British India.

Stamping of length of piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as de-

[... of] 1881. fined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

Evidence of origin of goods imported by sea.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the
1878. Sea Customs Act, 1878, as amended by this Act, be *primâ facie* evidence of the place or country in which the goods were made or produced.

Costs of defence or prosecution.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the Indian Penal
[...] 1860. Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

Limitation of prosecution.

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

Authority of the Governor General in Council to issue instructions as to administration of this Act.

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or weight, which are to be recognised by Criminal Courts as permissible in the case of any goods.

Implied warranty on sale of marked goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Savings.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

Transitory Provision.

Date of commencement of this Act as regards unstamped piece-goods.

19. The prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, VIII of 1878.
1878, as amended by this Act, shall not take effect till the first day of August, 1889, and the provisions of section 12 shall, as regards piece-goods made up in bales in a factory before the first day of April, 1889, remain in abeyance till the first day of July, 1889.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 21, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1889, and is hereby promulgated for general information :—

ACT NO. VI OF 1889.

An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Probate and Administration Act, 1889.

(*2*) It applies to the whole of British India (inclusive of Upper Burma except the Shan States); and

(*3*) It shall come into force at once.

Indian Succession Act, 1865.

Amendment of section 234, Act X, 1865.

2. After the 4th clause of the *explanation* to section 234 of the Indian Succession Act, 1865, the following shall be added, namely :—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

Amendment of section 244, Act X, 1865.

3. In section 244 of the same Act, for the words "and that the petitioner is the executor therein named" the following shall be substituted, namely :—

"the amount of assets which are likely to come to the petitioner's hands, and

"that the petitioner is the executor named in the will ;".

Amendment of section 254, Act X, 1865.

4. For the last forty-two words of section 254 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section 255, Act X, 1865.

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section 256, Act X, 1865.

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted.

Substitution of new section for section 277, Act X, 1865.

7. For section 277 of the same Act the following shall be substituted, namely :—

Inventory and account.

"277. (*1*) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(*2*) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(*3*) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section
XLV of 1860. 176 of the Indian Penal Code.

"(*4*) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

Amendment of section 277A, Act X, 1865.

8. In section 277A of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words and figures "the person applying for administration after the first day of April, 1875," the word "administrator", shall be substituted.

Amendment of section 283, Act X, 1865.

9. (*1*) In section 283 of the same Act. for the words "the country in which he was domiciled" the words "British India" shall be substituted.

(*2*) The *illustration* to the same section is hereby repealed.

Addition to Act X, 1865.

10. To the same Act the following shall be added, namely :—

Surrender of revoked probate or letters of administration.

"333. (*1*) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(*2*) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

Probate and Administration Act, 1881.

Amendment of section 50, Act V, 1881.

V of 1881. 11. After the 4th clause of the *explanation* to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely :—

"5th, that the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

Amendment of section 76, Act V, 1881.

12. For the portion of section 76 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Amendment of section 77, Act V, 1881.

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

Substitution of new section for section 90, Act V, 1881.

14. For section 90 of the same Act the following shall be substituted, namely :—

Power of executor or administrator to dispose of property.

"90. (*1*) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(*2*) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(*3*) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(*a*) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(*b*) lease any such property for a term exceeding five years.

"(*4*) A disposal of property by an executor or administrator in contravention of sub-section (*2*) or sub-section (*3*), as the case may be, is voidable at the instance of any other person interested in the property.

"(*5*) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto

a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

"(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

Substitution of new section for section 98, Act V, 1881.

15. For section 98 of the same Act the following shall be substituted, namely:—

Inventory and account.

"98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

"(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code. 1860.

"(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

Amendment of section 99, Act V, 1881.

16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words "the person applying for administration" the word "administrator", shall be substituted.

Addition to Act V, 1881.

17. To the same Act the following shall be added, namely:—

Surrender of revoked probate or letters of administration.

"157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

"(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

Court-fees Act, 1870, and Indian Stamp Act, 1879.

Amendment of Act VII, 1870, and Act I, 1879.

18. (1) Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is hereby repealed. VII of 1870.

(2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority" the following words shall be substituted, namely:—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882, or the Code of Civil Procedure." X of 1882. XIV of 1882.

(3) In article 2 of the first schedule to the Indian Stamp Act, 1879, after the words "Administration-bond" the following shall be added, namely:— I of 1879.

"including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889. X of 1865. V of 1873. V of 1881. VII of 1889.

(4) In article 13 of the first schedule to the Indian Stamp Act, 1879, after the words "not otherwise provided for by this Act" there shall be added the words "or by the Court-fees Act, 1870." VII of 1870.

Miscellaneous.

Validation of acts under grants of administration already made.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained. V of 1881.

Recovery of penalties and forfeitures under Act VII, 1870.

20. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India. VII of 1870.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture, or any part of any further penalty payable under section 19E of the said Act.

Repeal of part of section 7 (3), Bengal Act VII of 1880.

21. The following portion of section 7, clause (3), of the Act of the Lieutenant-Governor of Bengal in Council No. VII of 1880, entitled the Public Demands Recovery Act, 1880, namely:—

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H,"

is hereby repealed.

S. HARVEY JAMES,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1889, and is hereby promulgated for general information :—

ACT No. VII OF 1889.

THE SUCCESSION CERTIFICATE ACT, 1889.

CONTENTS.

The Succession Certificate Act, 1889.

(Sections 1-5.)

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:—

Title, commencement, extent and application.

1. (*1*) This Act may be called the Succession Certificate Act, 1889.

(*2*) It shall come into force on the first day of May, 1889; and

(*3*) It extends to the whole of British India (inclusive of Upper Burma except the Shan States);

(*4*) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.

X of 1865. XXI of 1870.

Repeal.

2. (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act.

(*3*) Any enactment except this Act and section 152 of the Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

V of 1881.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "District Court", subject to the other provisions of this Act and to the provisions of proviso (*b*) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge: and

XVIII of 1884.

(*2*) "security" means—

(*a*) any promissory note, debenture, stock or other security of the Government of India;

(*b*) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;

(*c*) any stock or debenture of, or share in, a company or other incorporated institution;

(*d*) any debenture or other security for money issued by, or on behalf of, a local authority;

(*e*) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Act.

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (*1*) No Court shall—

(*a*) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(*b*) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 36 or section 37 of the Administrator General's Act, 1874, and having the debt mentioned therein, or II of

(iii) a certificate granted under this Act and having the debt specified therein, or

(iv) a certificate granted under Act XXVII of 1860 or an enactment repealed by that Act, or

(v) a certificate granted under the Regulation of the Bombay Code No. VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(*2*) The word "debt" in sub-section (*1*) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

Court having jurisdiction to grant certificate.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

The Succession Certificate Act, 1889.

(Sections 6-11.)

Application for certificate.

6. (*1*) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:—

1882.

- (*a*) the time of the death of the deceased;
- (*b*) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits;
- (*c*) the family or other near relatives of the deceased and their respective residences;
- (*d*) the right in which the petitioner claims;
- (*e*) the absence of any impediment under section 1, sub-section (*4*), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and
- (*f*) the debts and securities in respect of which the certificate is applied for.

(*2*) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure on application.

7. (*1*) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

- (*a*) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and
- (*b*) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(*2*) When the Court decides the right thereto to belong to the applicant, it shall make an order for the grant of the certificate to him.

(*3*) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *primâ facie* the best title thereto.

(*4*) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

Contents of certificate.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

- (*a*) to receive interest or dividends on, or
- (*b*) to negotiate or transfer, or
- (*c*) both to receive interest or dividends on, and to negotiate or transfer,

the securities or any of them.

Requisition of security from grantee of certificate.

9. (*1*) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (*3*) or sub-section (*4*), and may in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to enure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(*2*) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

Extension of certificate.

10. (*1*) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(*2*) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

Forms of certificate and extended certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

The Succession Certificate Act, 1889.

(Sections 12-14.)

Amendment of certificate in respect of powers as to securities.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

VII of 1870. Amendment of Act VII, 1870.

13. (*1*) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870, the following shall be substituted, namely :—

VII of 1889.

Number.		Proper fee.
"11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value : provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
"12. Certificate under the Succession Certificate Act, 1889.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(*1*) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (*2*) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
"12A. Certificate under the Regulation of the Bombay Code No. VIII of 1827.		(*1*) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (*2*) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

(*2*) In the Court-fees Act, 1870, section 19, clause viii, for the words and figures "and certificate mentioned in the First Schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827" shall be substituted. VII of

Mode of collecting court-fees on certificates.

14. (*1*) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for. VII of

The Succession Certificate Act, 1889.

(Sections 15-23.)

(*2*) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(*3*) Any sum received under sub-section (*1*) and not expended under sub-section (*2*) shall be refunded to the person who deposited it.

Local extent of certificate.

15. A certificate under this Act shall have effect throughout the whole of British India.

Effect of certificate.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (*4*), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate granted or extended by British representative in Foreign State.

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

Revocation of certificate.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:—

(*a*) that the proceedings to obtain the certificate were defective in substance;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;

(*d*) that the certificate has become useless and inoperative through circumstances;

(*e*) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

19. (*1*) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(*2*) An appeal under sub-section (*1*) must be preferred within the time allowed for an appeal under the Code of Civil Procedure. XIV of 1882.

(*3*) Subject to the provisions of sub-section (*1*) and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

Effect on certificate of previous certificate, probate or letters of administration.

20. Save as provided by this Act, a certificat granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Effect on certificate of subsequent probate or letters of administration.

21. (*1*) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate. V of 1881.

(*2*) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

Validation of certain payments made in good faith to holder of invalid certificate.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

Prohibition of exercise of certain powers by curators.

23. (*1*) Where a certificate has been granted under this Act or Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator:

(*2*) But persons who have paid debts or rents to a curator authorised by a Court to

The Succession Certificate Act, 1889.

(Sections 24-28.)

receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

Effect of certain probates and letters.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865: X of 1865.

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

26. (*1*) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.

(*2*) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court:

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (*1*) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(*3*) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, be final. XI

(*4*) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(*5*) A notification under sub-section (*1*) may specify any inferior Court specially or any class of such Courts in any local area.

(*6*) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a District Court.

Surrender of superseded and invalid certificates.

27. (*1*) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(*2*) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

Provisions with respect to certificates under Bombay Regulation VIII of 1827.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII of 1827, the provisions of section 3, section 6, sub-section (*1*), clause (*f*), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

The Succession Certificate Act, 1889.

(The First Schedule.—Enactments repealed.)

(The Second Schedule.—Forms of certificate and extended certificate.)

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
Acts of the Governor General in Council.		
XXVII of 1860.	Collection of debts on successions.	So much as has not been repealed.
XIV of 1869.	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons) and".
XV of 1874	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
XIII of 1879.	Oudh Civil Courts Act, 1879	Section 25, clause (3), relating to applications for certificates under Act XXVII of 1860.
V of 1881.	Probate and Administration Act, 1881.	Sections 151 and 153.
XVIII of 1884.	Punjab Courts Act, 1884.	Section 29, sub-section (1), clause (a).
XII of 1887.	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).
Act of the Lieutenant-Governor of Bengal in Council.		
VII of 1880	Public Demands' Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I".

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(*See section 11.*)

In the Court of

To *A. B.*

Whereas you applied on the day of for a certificate under the Succession Certificate Act 1889, in respect of the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of .

District Judge.

In the Court of

On the application of *A. B.* made to me on the day of , I hereby extend this

The Succession Certificate Act, 1889.

(The Second Schedule.—Forms of certificate and extended certificate.)

certificate to the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of .

District Judge.

S. HARVEY JAMES,
Secretary to the Government of India.

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LAHORE, THURSDAY, APRIL 4, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March, 1889, and is hereby promulgated for general information :—

ACT No. VIII OF 1889.

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea
1878. Customs Act, 1878, and the Indian Tariff Act,
882. 1882; It is hereby enacted as follows :—

Sea Customs Act, 1878.

Amendment of section 37, Act VIII, 1878.

1878. **1.** For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely :—

"Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption."

Amendment of section 115, Act VIII, 1878.

2. In section 115 of the same Act, for the words and figures "the second proviso to section 37" the words "such alteration" shall be substituted.

Indian Tariff Act, 1882.

Amendment of section 1, Act XI, 1882.

882. **3.** In section 1 of the Indian Tariff Act, 1882, the words "and Perim" shall be inserted after the word "Aden".

Addition of new section to Act XI, 1882.

4. The following section shall be added to the same Act, namely :—

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

"10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(*a*) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

Amendment of the Second Schedule to Act XI, 1882.

5. In No. 1 of the Second Schedule to the same Act, for the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. A.	
	Gunpowder, common.	lb.	0 5	10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts .	...	*Ad valorem*	

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. A.	
	Gunpowder, common.	lb.	0 5	10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	...	*Ad valorem*	10 per cent.

Explanation.—The expression "Arms, Ammunition and Military Stores," as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

XI of 1878. (*a*) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, 1878, and

(*b*) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be "military stores" for the purposes of this Act.

S. HARVEY JAMES,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 15th March, 1889:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

From Officiating Secretary to Chief Commissioner, Assam, No. 383, dated 8th February, 1889 [Paper No. 1].
From Chief Commissioner, Ajmere-Merwára, No. 128—690, dated 9th February, 1889 [Paper No. 2].
From Junior Secretary to Government, Punjab, No. 177, dated 15th February, 1889, and enclosure [Papers No. 3].
From Secretary to Chief Commissioner, Coorg, No. 259—119, dated 12th February, 1889 [Paper No. 4].
From Officiating Secretary to Government, Bengal, No. C.—1A.—1-9, dated 16th February, 1889, and enclosures [Papers No. 5].
From Registrar, High Court, Calcutta, No. 474, dated 22nd February, 1889 [Paper No. 6].
From Chief Secretary to Government, Madras, No. 302, dated 18th February, 1889, and enclosures [Papers No. 7].
From Secretary to Government, North-Western Provinces and Oudh, No. 69—XIII-80A., dated 26th February, 1889 [Paper No. 8].
From Secretary for Berar to Resident, Hyderabad, No. 91G., dated 27th February, 1889 [Paper No. 9].
From Chief Secretary to Government, Bombay, No. 1641, dated 27th February, 1889, and enclosures [Papers No. 10].
From Under Secretary to Chief Commissioner, Central Provinces, No. 1342—60, dated 2nd March, 1889 [Paper No. 11].
From Officiating Under Secretary to Chief Commissioner, Burma, No. 4—4L., dated 1st March, 1889, and enclosures [Papers No. 12].
From Secretary, Bengal Chamber of Commerce, No. 212, dated 9th March, 1889 [Paper No. 13].

2. Section 110 of the Sea Customs Act, 1878, is one of several inter-dependent sections, and it seems to us to be unnecessary to amend it for the purpose mentioned in the Statement of Objects and Reasons. It is sufficiently clear from the new proviso to section 37 of the Act that where, after goods liable to duty have been assessed and warehoused, the duty is repealed, the goods may be cleared for home consumption free of duty.

3. We have slightly altered the proposed amendment of section 115 of the Sea Customs Act, 1878.

4. At the instance of the Government of Bombay we have expressly excluded Perim from the operation of the Indian Tariff Act, 1882.

5. The Bengal, Bombay and Rangoon Chambers of Commerce approve, and the Madras Chamber disapproves, the addition of the proposed section 10 to the Indian Tariff Act, 1882. We concur with the majority in thinking that the section should be added to the Act.

6. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	19th January, 1889.
Fort Saint George Gazette	5th February, 1889.
Bombay Government Gazette	24th January, 1889.
Calcutta Gazette	23rd January, 1889.
North-Western Provinces and Oudh Government Gazette	26th January, 1889.
Punjab Government Gazette	31st January, 1889.
Central Provinces Gazette	26th January, 1889.
Burma Gazette	2nd February, 1889.
Assam Gazette	2nd February, 1889.
Coorg District Gazette	1st March, 1889.
Sindh Official Gazette	7th February, 1889.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	7th February, 1889.
	Gujarathi	7th February, 1889.
	Kanarese	7th February, 1889.
Bengal	Bengali	5th February, 1889.
	Uriya	14th February, 1889.
	Hindi	5th March, 1889.
Burma	Burmese	9th February, 1889.
Assam	Bengali	23rd February, 1889.
Sindh	Sindhi	7th February, 1889.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

D. BARBOUR.
ANDREW R. SCOBLE.
ROBT. STEEL.
FRED. M. HALLIDAY.
DINSHAW MANOCKJEE PETIT.
DOORGA CHURN LAW.

The 13th March, 1889.

S. HARVEY JAMES,
Secretary to the Government of India.

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LAHORE, THURSDAY, SEPTEMBER 12, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 4th September, 1889, and is hereby promulgated for general information :

ACT NO. XII. OF 1889.

An Act to amend the Indian Merchandise Marks Act, 1889.

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November, 1889, without having their length stamped thereon in standard yards, or in standard yards and a fraction of such a yard; It is hereby enacted as follows :—

Power for Local Government to temporarily suspend operation of section 18, Act VIII, 1878, as regards piece-goods.

1. (*1*) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (*2*), of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October, 1889. VIII of 1878. IV of 1889.

(*2*) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (*1*).

S. HARVEY JAMES,
Secretary to the Government of India.

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Published by Authority.

LAHORE, THURSDAY, OCTOBER 17, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th October, 1889, and is hereby promulgated for general information:

ACT NO. XIII. OF 1889.

THE CANTONMENTS ACT, 1889.

CONTENTS.

4 a

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Cantonments Act, 1889.

(*2*) It extends to the whole of British India, inclusive of Upper Burma; and

(*3*) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

Repeal.

2. (*1*) On and from that day the enactments specified in the schedule are repealed to the extent mentioned in the third column thereof:

(*2*) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.

(*3*) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any Regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bázárs, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Interpretation.

3. (*1*) In this Act and in the rules thereunder, unless there is something repugnant in the subject or context,—

(*a*) "officer" means—

(*i*) a person who, being an officer within the meaning of the Army Act, 1881, is commissioned and in pay as an officer doing military duty with Her Majesty's regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and

(*ii*) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act, 1881:

(*b*) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act, 1881, and is not an officer within the meaning of this Act:

(*c*) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act:

(*d*) "intoxicating drug" means opium, ganja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act: and

(*e*) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.

(*2*) The provisions of the General Clauses Acts, 1868 and 1887, shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council.

CHAPTER II.

CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

Cantonments.

Definition of cantonments.

4. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the purposes of

The Cantonments Act, 1889.
(Chapter II.—Cantonments and Cantonment Authorities, Courts and Police.—Sections 5-12. Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Section 13.)

this Act and of all other enactments for the time being in force, and may withdraw any such declaration.

(2) The Local Government, with the like sanction, may also, by a like notification, define the limits of any cantonment for the like purposes.

Cantonment Authorities and Magistrates.

Cantonment authority and Magistrate.

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

Cantonment authority.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.

(3) The cantonment authority shall be deemed to be a local authority as defined in the Local Authorities Loan Act, 1879, Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), the Indian Telegraph Act, 1885, and the General Clauses Act, 1887.

Cantonment Magistrate.

7. The Cantonment Magistrate shall be a Magistrate appointed by the Local Government under section 12 of the Code of Criminal Procedure, 1882, and, as such, subordinate to the District Magistrate, or to the District Magistrate and the Sub-divisional Magistrate, as the case may be, under section 17 of that Code.

Cantonment Court of Small Causes.

Appointment of Cantonment Magistrate as Judge of Cantonment Court of Small Causes.

8. (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the Provincial Small Cause Courts Act, 1887, it shall, in its order appointing him to be such Judge, declare, and may by notification in the official Gazette vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

Appointment of Additional Judge of Cantonment Court of Small Causes.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the Provincial

Judges of existing Cantonment Courts of Small Causes.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the Provincial Small Cause Courts Act, 1887, and, in the absence of any order of the Local Government to the contrary, to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees. IX of 1887.

Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases notwithstanding reduction of jurisdiction of Judge.

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Cantonment Police.

Police.

12. (1) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*) or Act V of 1861 (*for the regulation of Police*) or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of Act V of 1861.

CHAPTER III.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

Unauthorised sale of spirituous liquor or intoxicating drug.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written

The Cantonments Act, 1889.

(Chapter III.—Spirituous Liquors and Intoxicating Drugs.—Sections 14-16. Chapter IV.—Taxation and Cantonment Fund.—Sections 17-20.)

cantonment or of some person authorised by the commanding officer to grant such permission, he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

Unauthorised possession of spirituous liquor.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

(*a*) any person subject to military law otherwise than as an officer or soldier, or

(*b*) the wife or servant of any such person or of a soldier,

has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.

15. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(*2*) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(*3*) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (*1*) or sub-section (*2*).

X of 1882.

(*4*) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1882, anything seized under sub-section (*1*) or sub-section (*2*) and not confiscated under sub-section (*3*) shall be restored to the person from whom it was taken.

Saving of article sold or supplied for medicinal purposes.

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist

CHAPTER IV.

TAXATION AND CANTONMENT FUND.

Taxation.

General power of taxation.

17. (*1*) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

(*a*) impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

(*b*) abolish or modify any tax so imposed.

(*2*) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (*1*), the Local Government, with the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

Extension of Act XX of 1856 to certain cantonments.

18. (*1*) The Local Government may, by notification in the official Gazette, extend the provisions of Act XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukidárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*) to any cantonment which is not included in a municipality and which is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(*2*) The Local Government may order that a cantonment to which the provisions of Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(*3*) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (*1*), and may revoke or vary any order under sub-section (*2*).

Restriction of power of taxation in cantonments in which Act XX of 1856 is in force.

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, shall not be imposed under section 17 of this Act in the cantonment.

Power to prohibit or exempt from taxation.

20. (*1*) Notwithstanding anything in any enactment for the time being in force, the Governor General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed

The Cantonments Act, 1889.

(Chapter IV.—Taxation and Cantonment Fund.—Sections 21-24. Chapter V.—Supplemental Provisions.—Sections 25-26.)

or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

(*2*) Where the area subject to the authority of a municipal committee as defined in section 2 of the Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment. [1881.]

Cantonment Fund.

Cantonment fund.

21. (*1*) There shall be formed for every cantonment which is not included in a municipality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely:—

(*a*) subject to deductions under section 545 of the Code of Criminal Procedure, 1882, or under any other enactment for the time being in force or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended or rule made thereunder, or against the provisions of section 34 of Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the Indian Penal Code or of section 156 of the Army Act, 1881; [882.] [of 1860.] [5 Vict.,]

(*b*) the proceeds of taxes imposed under section 17 or levied under Act XX of 1856 in the cantonment; and

(*c*) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(*2*) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

Custody of cantonment fund.

22. (*1*) Where, in or near a cantonment, there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(*2*) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person acting as a banker who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

Vesting and management of cantonment fund.

23. The cantonment fund shall be vested in Her Majesty, and, subject to the provisions of this Act and of the rules thereunder and to the control of the Local Government, the management of the fund shall be entrusted to the cantonment authority.

Acquisition of immoveable property at cost of cantonment fund.

24. The cantonment fund shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the Land-acquisition Act, 1870, and any property acquired at the cost of the cantonment fund shall vest in Her Majesty. [X of 1870.]

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Extension of enactments to cantonments.

25. The Governor General in Council may, by notification in the Gazette of India, extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

Matters respecting which rules may be made.

26. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely:—

(*1*) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;

(*2*) the conditions to be annexed to every such permission given in pursuance of such an application;

(*3*) the preparation and maintenance of registers of immoveable property in cantonments;

(*4*) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees;

(*5*) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened;

(*6*) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment;

(*7*) the purposes to which the cantonment fund may be applied;

(*8*) the authority on which money may be paid from the cantonment fund;

(*9*) the investment of any balance of that fund;

(*10*) the execution of contracts by, or on behalf of, the cantonment authority;

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(Chapter V.—Supplemental Provisions.—Sections 27-28.)

(*11*) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published;

(*12*) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25;

(*13*) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions;

(*14*) the prevention of the overcrowding of buildings and places in a cantonment;

(*15*) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary-walls, hedges and other fences;

(*16*) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands;

(*17*) the regulation of encamping-grounds, saráis, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies;

(*18*) the use and management of burial and burning grounds;

(*19*) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof;

(*20*) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons;

(*21*) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease;

(*22*) the segregation in, or the removal and exclusion from, a cantonment, or the destruction, of animals suffering or supposed to be suffering from any infectious or contagious disease;

(*23*) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the Indian Penal Code or section 156 of the Army Act, 1881, or have been ordered under the Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom;

XLV of 1860.
44 & 45 Vict., c. 58.
X of 1882.

(*24*) the prevention of cruelty to animals and the care of animals while grazing;

(*25*) the prevention and extinction of fires;

(*26*) the registration of births and deaths;

(*27*) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder;

(*28*) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences;

(*29*) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed;

(*30*) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from; and,

(*31*) generally, the carrying out of the purposes of this Act.

Supplemental provisions respecting rules.

27. (*1*) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner as the Governor General in Council prescribes.

(*2*) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

(*3*) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(*4*) In making any rule under clause (*12*) or any of the following clauses of the last foregoing section, the Governor General in Council may direct that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach, with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

Extension of certain enactments and rules to places beyond cantonments.

28. The Local Government may, by notification in the official Gazette and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

(*a*) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25, or

The Cantonments Act, 1889.

(Chapter V.—Supplemental Provisions.—Sections 29-33.)
(The Schedule.—Enactments repealed.)

(*b*) any rule in force in the cantonment or any part thereof under clause (*12*) or any of the following clauses of section 26, as well as any direction there in force under sub-section (*4*) of section 27;

and the enactment, rule or direction specified in the notification shall, so long as the notification remains uncancelled, apply to that area as if the area were included in the cantonment.

Inapplicability of section 555, Act X, 1882, to trials of offences against this Act.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment, or because he has ordered or approved the prosecution.

Cantonments in presidency-towns.

30. Where a cantonment is situated within the limits of a presidency-town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

Protection of cantonment authority, Magistrate and commanding officer.

31. A suit or prosecution shall not be entertained in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate or commanding officer for anything in good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorized by the powers so conferred.

Registration.

32. (*1*) Section 54, paragraphs two and three, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

(*2*) Where a cantonment has not been constituted a sub-district or district for the purposes of the Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

Limitation of the operation of this Act.

33. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
Act XVIII of 1853.	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854.	Sentences of superintendents of bázárs.	The whole, so far as it has not been repealed.
Act XLV of 1860.	Indian Penal Code.	The words "or before a Military Court of Request" in *Explanation 1* to section 193.
Act V of 1869.	Indian Articles of War.	Part III, clause (*c*): and for the last twenty-seven words of Part I, clause (*f*), the following shall be substituted, namely:— "and officers in charge of the police in cantonments are defined and controlled."
Act VII of 1870.	Court-fees Act, 1870.	Section 19, clause iv, and in Schedule II, article 1, clause (*a*), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859."
Act XV of 1874.	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832: so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827: and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.

The Cantonments Act, 1889.

(The Schedule.—Enactments repealed.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XX of 1875.	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.
Act XVIII of 1876.	Oudh Laws Act, 1876.	So much as relates to Bengal Regulation XX of 1810.
Act III of 1877.	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof".
Act XIV of 1879.	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned".
Act III of 1880.	Cantonments Act, 1880.	So much as has not been repealed.
Act XXII of 1881.	Excise Act, 1881.	The proviso to section 53.
Act X of 1882.	Code of Criminal Procedure, 1882.	Clause (*b*) of section 1.
Act XIV of 1882.	Code of Civil Procedure.	Section 6, clause (*a*), the words "an officer or" in section 468, and the whole of section 469.
Act XX of 1886.	Upper Burma Laws Act, 1886.	In the First Part of the Second Schedule the words and figures "III of 1880, Cantonments".

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Regulation of the Bengal Code.		
Regulation XX of 1810.	Military bázárs.	So much as has not been repealed.
Regulation of the Bombay Code.		
Regulation XXII of 1827.	Military authority.	So much as has not been repealed, except sections 40, 41, 42 and 43.
Acts of the Governor of Fort St. George in Council.		
Act IV of 1865.	Madras Cantonments.	The whole, so far as it has not been repealed.
Act I of 1866	Madras Cantonments.	So much as has not been repealed.
Act of the Governor of Bombay in Council.		
Act III of 1867.	Bombay Cantonment Act of 1867.	So much as has not been repealed.
Act of the Lieutenant-Governor of Bengal in Council.		
Act VII of 1878.	Bengal Excise Act, 1878.	The proviso to section 81.
Regulation under the Statute 33 Victoria, Chapter 3.		
III of 1877.	Ajmere Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.

S. HARVEY JAMES,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

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PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th October, 1889, and is hereby promulgated for general information :

ACT No. XV OF 1889.

An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows :—

Title, extent and application.

1. (*1*) This Act may be called the Indian Official Secrets Act, 1889; and

(*2*) It extends to the whole of British India, and applies—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and

(*b*) to all Native Indian subjects of Her Majesty without and beyond British India.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty:

(*2*) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated :

(*3*) "document" includes part of a document:

(*4*) "model" includes design, pattern and specimen :

(*5*) "sketch" includes any photograph or other mode of representation of any place or thing: and

(*6*) "office under Her Majesty" includes any office or employment in or under any department of the Government.

Disclosure of information.

3. (*1*) (*a*) Where a person for the purpose of wrongfully obtaining information—

(i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship, office or other like place, in which part he is not entitled to be, or,

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,

(iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

(*b*) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

(*c*) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty,

wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(*3*) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

Breach of official trust.

4. (*1*) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(*2*) A person guilty of a breach of official trust shall—

(*a*) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(*b*) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(*3*) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

Restriction on prosecution.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor General in Council.

J. M. MACPHERSON,

Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, DECEMBER 26, 1889.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 13th December, 1889, and is hereby promulgated for general information :—

ACT NO. XX OF 1889.

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows :—

Substitution of new section for section 17A, Act XXXVI, 1858.

1. For section 17A of Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*), as amended by Act XVIII of 1886 (*an Act to amend Act XXXVI of 1858*) the following shall be substituted, namely :—

Provision for provinces having insufficient or no asylums.

"17A. In either of the following cases, namely :—

(*a*) when an executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(*b*) when it appears to the Governor General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Addition of new section after section 17B, Act XXXVI, 1858.

2. After section 17B of the said Act XXXVI of 1858 the following section shall be added, namely :—

Removal of lunatics from one asylum to another.

"17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India."

Repeal of section 11 of Act XXXVI of 1858.

3. Section 11 of the said Act XXXVI of 1858 is hereby repealed.

S HARVEY JAMES,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 31, 1889.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th January, 1889:—

NO. 1 OF 1889.

A Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

Amendment of section 37, Act VIII, 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely:—

"Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption."

Amendment of section 110, Act VIII, 1878.

2. For section 110 of the same Act the following shall be substituted, namely:—

Clearance of bonded goods for home-consumption.

"110. Any owner of goods warehoused may, at any time within three years from the date of the bond executed in respect thereof under section 92, clear such goods for home-consumption by paying—

(*a*) the duty leviable on such goods at the rate and according to the valuation (if any) applicable thereto on the date on which application is made to clear such goods from the warehouse for home-consumption, and

(*b*) all rent, penalties, interest and other charges payable to the Customs-collector in respect of such goods."

Amendment of section 115, Act VIII, 1878.

3. In section 115 of the same Act, the words "in accordance with the second proviso to section 37" are hereby repealed.

Indian Tariff Act, 1882.

Addition of new section to Act XI, 1882.

4. The following section shall be added to the Indian Tariff Act, 1882, namely:— XI of 1882.

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

"10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,— [39 & 40 Vict., c. 36, s. 20.]

(*a*) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

Amendment of the Second Schedule to Act XI, 1882.

5. In No. 1 of the Second Schedule to the same Act, for the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. A.	
	Gunpowder, common.	lb.	0 5	10 per cent.
	Gunpower, sporting.	lb.	1 0	
	All other sorts .	...	*Ad valorem.*	

there shall be substituted the following, namely :—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
*	*	*	*	*
			Re. A.	
	Gunpowder, common.	lb.	0 5	10 per cent.
	Gunpowder, sporting.	lb.	1 0	
	All other sorts of Arms, Ammunition and Military Stores.	...	*Ad valorem*	10 per cent.

Explanation.—The expression "Arms, Ammunition and Military Stores," as used in the foregoing part of this Schedule, includes, in addition to any article specifically mentioned in that part,—

(*a*) all articles which are either "arms" or "ammunition" within the meaning of the Indian Arms Act, 1878, and

(*b*) any articles which the Governor General in Council may from time to time, by notification in the Gazette of India, declare to be "military stores" for the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill (section 1) is to repeal the proviso to section 37 of the Sea Customs Act, 1878, which enacts that when the rate of duty or tariff-valuation (if any) applicable to any goods imported has been raised after the grant of port-clearance at the port of shipment, the rate and valuation applicable to such goods shall be, not the rate and valuation in force on the date on which the bill-of-entry thereof is delivered to the Customs-collector under section 86 of the Act, but the rate and valuation in force on the date on which port-clearance at the port of shipment was granted. There is no precedent for such a proviso either in the law of England or, so far as the Government of India has been able to ascertain, in the law of any other country. The proviso was adversely criticised while the Bill, which became the Sea Customs Act, 1878, was under consideration : it has had the effect, which was then anticipated, of seriously disturbing trade, and it has caused very heavy loss of revenue to the Government.

Another object of the Bill (section 2) is to make it clear that where, after goods liable to duty have been assessed and warehoused, the duty is repealed, the goods may be cleared from the warehouse for home-consumption free of duty.

A third object (section 4) is to introduce into India the rule enacted in 18 & 19 Vict., c. 97, s. 9, and continued in 39 & 40 Vict., c. 36, s. 20. It was proposed to incorporate such a rule in the Bill which became the Sea Customs Act, 1878, but the proposal was not approved by the mercantile community and was on that account abandoned. The rule, however, has been in operation in the United Kingdom since 1855, and would seem, from the fact of its re-enactment by Parliament in 1876 and from the absence of any reference to it in the Law Reports, not to have entailed the ill effects which were feared when its introduction into India was last considered. In these circumstances, it is held to be desirable to insert the rule in the Bill with a view to its being carefully considered again.

A fourth object (section 5) is to define the expression "arms, ammunition and military stores," as used in the Indian Tariff Act, 1882, and to enable the Governor General in Council to declare from time to time what articles are to be deemed to be "military stores" within the meaning of the Act. The amendment necessary for this purpose will not affect any notification for the time being in force under section 23 of the Sea Customs Act, 1878.

The 18th January, 1889.

D. BARBOUR.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY JUNE 20, 1889.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 13th June, 1889:

NO. 4 OF 1889.

A Bill to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Charitable Endowments Act, 1889.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on the first day of April, 1890.

Definition.

[...iz., c.] 2. In this Act "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include religious teaching as an exclusive purpose.

Appointment and incorporation of Treasurer of Charitable Endowments.

[... & 17 ... c. 137, and 18 ... ict., c. ... 15.]

3. (*1*) The Governor-General in Council may appoint a servant of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to any Local Government.

(*2*) Such Treasurer shall, for the purposes of taking, holding and transferring moveable or immoveable property, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

Orders vesting property in Treasurer.

[16 & 17 Vict., c. 137, s. 48: and 23 & 24 Vict., c. 136, s. 2.]

4. (*1*) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the provisions of sub-section (*2*), order, by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

[Act XI, 1876, s. 36: and Act II, 1882, s. 20.]

(*2*) The Local Government shall not make an order under sub-section (*1*) for the vesting in the Treasurer of Charitable Endowments of any securities for money except the following, namely:—

(*a*) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

(*b*) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India;

(*c*) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

(*d*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India;

(*e*) a security expressly authorised by any order which the Governor-General in Council may make in this behalf.

[16 & 17 Vict., c. 137, ss. 54 *et seqq*: 23 & 24 Vict., c. 136, s. 2: and 46 & 47 Vict., c. 36, ss. 11 *et seqq*.]

Schemes for administration of property vested in the Treasurer.

5. (*1*) The Local Government may, if it thinks fit, on application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, settle a scheme for the administration of any property which has been, or is to be, vested in the Treasurer of Charitable Endowments.

(2) A scheme settled under this section shall come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until another such scheme has been substituted in its stead.

[32 & 33 Vict., c. 56, ss. 46 and 47: and 46 & 47 Vict., c. 36, ss. 35 and 36.]

(*3*) Such a scheme shall supersede any instrument or direction relating to the subject-matter thereof and in any way repugnant thereto, and its validity shall not be questioned in any Court.

[32 & 33 Vict., c. 56, s. 30.]

(*4*) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained and, in the opinion of the Local Government, effect can reasonably be given to them.

(*5*) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not be brought into operation until the property has become so vested.

Mode of applying for vesting orders and schemes.

6. (*1*) The application referred to in the two last foregoing sections must be made,—

(*a*) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust or, where there are more persons than one so acting, then by those persons or a majority of them, and

(*b*) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(*2*) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

Exercise by Governor-General in Council of powers of Local Government.

7. (*1*) The Governor-General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(*2*) When the Governor-General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

Bare trusteeship of Treasurer.

8. (*1*) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

[16 & 17 Vict., c. 137, s. 52.]

(*2*) Such Treasurer shall keep a separate account of each property for the time being so vested which, or in so far as it, consists of securities for money, and shall dispose of the income of such property in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5 or in both those documents.

[16 Vict., s. 50.]

(*3*) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any general or special orders which he may receive from the Local Government, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

Annual publication of list of properties vested in Treasurer.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (*2*) of the last foregoing section.

Limitation of functions and powers of Treasurer.

10. (*1*) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(*2*) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub-section (*2*), clause (*a*), (*b*), (*c*), (*d*) or (*e*), or in the purchase of immoveable property.

Provision for continuance of office of Treasurer in certain contingencies.

11. If the office held by a servant of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor-General in Council may appoint the same or another servant of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

Transfer of property from one Treasurer to another.

12. If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor-General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

13. The Governor-General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and make such rules consistent with this Act as he may deem expedient for carrying into effect the purposes thereof.

Power to frame forms and make rules.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the dividends, interest or income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

Indemnity to Government and Treasurer.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate-General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

Saving with respect to Advocates-General and Official Trustees.

[4 Moore's I. A. 190.]

STATEMENT OF OBJECTS AND REASONS.

On many occasions the want has been felt in India of an official capable of discharging the functions which are discharged in England by the Official Trustee of Charity Lands and the Official Trustees of Charitable Funds. The object of this Bill is to meet that want.

2. Much property has from time to time in different parts of India been vested by founders in public servants, such as the Collector, Director of Public Instruction, Accountant-General and Divisional Commissioner. With respect to a case in which an Accountant-General and a Divisional Commissioner had been named as trustees, the Officiating Advocate-General of Bengal and the Officiating Standing Counsel stated in a joint opinion in 1885 that persons cannot, as holders of certain posts, be appointed trustees "unless these posts are corporate ones." "Neither the office of the Accountant-General nor that of the Commissioner," they observed, "is a corporate office; and even if appointed by the designation of their office only, and not by name, the trust-fund would vest in them as individuals, and they would remain trustees until they themselves appointed others to succeed them or until they died."

3. There is a difficulty in India in finding any corporation capable of acting as a trustee in such cases as this Bill is designed to meet. The Secretary of State for India in Council and the Governor-General in Council are incapable of being trustees (L. R. 15 Ch. D. 9). It has also been held that Anglican Bishops and Archdeacons in India, who have been constituted by Letters Patent to be perpetual corporations, with power to take and hold property under grant or license from the Crown, are not capable of acting as trustees in some of the cases for which this Bill is intended to provide. To the question whether the Lord Bishop of Calcutta in his corporate capacity might not, under the Letters Patent for the Bishopric of Calcutta, bearing date the 14th May, 1814, hold land upon trust for a Diocesan School so that, upon his ceasing to be Bishop, it would devolve without a deed upon his successor in the Bishopric, an eminent counsel in England, to whom the question was referred, has replied in the negative. "It is quite true," he remarks, "that the Bishop is a corporation sole, and in that capacity can hold the lands belonging to his See. He may, however, only hold such lands as by grant or license from the Company (now Her Majesty) he is authorized to take, hold and enjoy. I think it is clear that the Letters Patent only refer to lands belonging to, or purchased out of moneys belonging to, the Bishopric. * * * * On the whole, I am of opinion that, if the land in question was conveyed to the Bishop as a trustee, it would pass on his death not to his successor but to his executors."

4. The Bill, it will be observed, is of a purely permissive character. The Government will be unable to make a vesting order or frame a scheme except on application for that purpose, and may, if it sees fit, refuse to act. The corporation sole in whom as Treasurer of Charitable Endowments property may be vested is, except as regards the disposal of any property by direction of the Government, to have nothing to do with the administration of the property. He is to be a bare trustee, the object of vesting the property in him by his name of office as a corporation sole being to secure the holding of the property by some one always present, and to avoid the difficulty and expense of appointing a new trustee on the retirement or death of any incumbent of the trust.

The 7th June, 1889. ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY AUGUST 22, 1889.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th August, 1889:

NO. 10 OF 1889.

A Bill to amend Act XXXVI. of 1858.

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows:

Substitution of new section for section 17A, Act XXXVI., 1858.

1. For section 17A of Act XXXVI. of 1858 (*an Act relating to Lunatic Asylums*), as amended by Act XVIII. of 1886 (*an Act to amend Act XXXVI. of 1858*), the following shall be substituted, namely:

Provision for provinces having insufficient or no asylums.

"17A. In either of the following cases, namely:

(*a*) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(*b*) when it appears to the Governor-General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or suitable accommodation,

the Governor-General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate."

Addition of new section after section 17B, Act XXXVI., 1858.

2. After section 17B of the said Act XXXIV. of 1858 the following section shall be added, namely:

Removal of lunatics from one asylum to another.

"17C. Any lunatic may, by order of the Governor-General in Council, be removed from any lunatic asylum established or licensed under this Act to any other such asylum in any part of British India."

STATEMENT OF OBJECTS AND REASONS.

SOME four years ago a question which had been raised with respect to the accommodation of lunatics compelled the Governor-General in Council to pass section 3 of Act XVIII. of 1886.

Two further questions touching the same subject have now arisen. One is whether, there being a lunatic asylum at Tezpur in Assam, lunatics from the Surma Valley in Assam can be sent to the Dacca asylum in Bengal. The other is whether a lunatic who is, say, a native of a district in the Madras Presidency can be sent from Bengal, where his language is not understood, to an asylum in his own country.

The object of the Bill is to set these further questions at rest.

The 5th August, 1889. PHIL. P. HUTCHINS.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY SEPTEMBER 5, 1889.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 28th August, 1889:

NO. 11 OF 1889.

A Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864 (*an Act to constitute an Office of Official Trustee*) the Indian Succession Act,
65. 1865, the Administrator General's Act, 1874,
74. and the Probate and Administration Act, 1881;
81. It is hereby enacted as follows:—

Act XVII of 1864.

Addition to section 1, Act XVII, 1864.

1. In section 1 of Act XVII of 1864 the following shall be inserted before the definition of the expression "High Court", namely:—

"Government."

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council:".

Substitution of new section for section 5.

2. For section 5 of the said Act the following shall be substituted, namely:—

Appointment, suspension and removal of Official Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment of section 6, Act XVII, 1864.

3. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

Amendment of section 7, Act XVII, 1864.

4. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee,".

Official Trustees holding office at commencement of this Act.

5. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

The Indian Succession Act, 1865.

Addition of new section after section 326, Act X, 1865.

6. After section 326 of the Indian Succession Act, 1865, the following section shall be inserted, namely:— X of 1865.

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

The Administrator-General's Act, 1874.

Amendment of definition of "Presidency of Bengal" in section 3, Act II, 1874.

7. In clause (*b*) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator-General's Act, 1874, the words "Burma, British Baluchistan" shall be substituted for the words "British Burma". II of 1874.

8. (*1*) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him", the following shall be substituted, namely:—

Substitution of new paragraph for first paragraph of section 37, Act II, 1874.

X of 1881.

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him;".

X of 1865.

(*2*) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed.

X of 1881.

9. After section 41 of the said Act the following section shall be inserted, namely:—

Addition of new section after section 41, Act II, 1874.

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of probate or letters of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

10. To the said Act, after Part VI and section 66 thereof, the following shall be added, namely:—

Addition to Act II, 1874, of a Part respecting the division of the Presidency of Bengal into Provinces.

"PART VII.

DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

67. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

Division of the Presidency of Bengal into Provinces.

(*a*) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,

(*b*) define the limits of each of those Provinces, and

(*c*) appoint an Administrator General for each Province,

and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

(i) the office of Administrator General of Bengal shall cease to exist:

(ii) the Administrator General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein:

(iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor-General in Council:

(iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:

(v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Government to discharge for a Province the functions under this Act of an Advocate General for a Presidency:

(vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province: and,

(vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863." 26 & 27 Vict., c. 57.

The Probate and Administration Act, 1881.

Addition of new section after section 145, Act V, 1881.

11. After section 145 of the Probate and Administration Act, 1881, the following section shall be inserted, namely:— V of 1881.

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill (section 10) is to provide for the division, upon the occurrence of a vacancy in the office of Administrator General of Bengal, of the present unwieldy Presidency of Bengal, as defined in the Administrator General's Act, 1874, into Provinces having Calcutta, Allahabad, Lahore and Rangoon as their respective centres.

2. Another object (sections 1 to 5), which has been approved by the Hon'ble the Chief Justices of the Calcutta, Madras and Bombay High Courts, is to enable the Government, as occasion occurs, to combine the office of Official Trustee with that of Administrator General at Calcutta, Madras and Bombay.

3. Another object of the Bill (section 7) is to provide for the administration of estates in Upper Burma and British Baluchistan by an Administrator General.

4. A further object (section 8) is to remove an ambiguity in the expression of section 5 of the Administrator General's Act, 1881.

5. Lastly, it not infrequently happens that a person not having his domicile in British India dies leaving assets both in British India and in the country of his domicile, his estate being administered by one executor or administrator in British India and by another in the country of domicile, and it has been held by very high authority that a receipt given by the executor or administrator in the country of domicile to the executor or administrator in British India for the surplus or residue of the estate in British India is not a valid discharge to the executor or administrator in British India. An object of the Bill (sections 6, 9 and 11) is to declare that such a receipt shall, subject to conditions, be a valid discharge.

The 26th August, 1889. ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

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PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 4th September, 1889:

NO. 13 OF 1889.

A Bill to amend the Indian Forest Act, 1878, the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887.

Whereas it is expedient to amend the Indian Forest Act, 1878, the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the Forest Act, 1889; and

(*2*) It shall come into force at once.

Indian Forest Act, 1878.

Amendment of section 2, Act VII, 1878.

2. (*1*) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely:—

"'Tree' includes bamboos, stumps, brushwood and canes:".

(*2*) For the definition of "Timber" in the same section the following shall be substituted, namely:—

"'Timber' includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use:".

(*3*) For the definition of "Forest-produce" in the same section the following shall be substituted, namely:—

"'Forest-produce' includes—

(*a*) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(*b*) the following when found in, or brought from, a forest; that is to say:—

(*i*) plants not being trees, and all parts or produce of such plants,

(*ii*) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(*iii*) peat, surface-soil, rock, and minerals (including mineral oils and all products of mines or quarries):".

Amendment of section 4, Act VII, 1878.

3. For clause (*b*) of section 4 of the said Act the following shall be substituted, namely:—

"(*b*) specifying as nearly as possible the situation and limits of such land; and". [Act XIX, 1881, s. 6, and Regulation VI, 1887, s. 4.]

Addition to section 5, Act VII, 1878.

4. To section 5 of the said Act the following proviso shall be added, namely:—

"Provided that nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Settlement-officer, or any clearings lawfully made for shifting cultivation by persons in the habit of practising such cultivation on such land." [Act XIX, 1881, s. 8, and Regulation VI, 1887, s. 6.]

Addition of new section after section 9, Act VII, 1878.

5. After section 9 of the said Act the following section shall be inserted, namely:—

Treatment of claims relating to practice of shifting cultivation.

"9A. (*1*) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record any local rule or order under which such practice is allowed or regulated, or, if no such rule or order exists, shall make an order specifying the particulars [Act XIX, 1881, s. 11, & Regulation VI, 1887, s. 9.]

of the claim, and permitting, or refusing to permit, such practice wholly or in part.

"(2) If such practice is permitted wholly or in part, the Forest Settlement-officer may—

(a) alter the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) cause certain portions of the land under settlement to be separately demarcated, and give permission to the claimants to practise shifting cultivation therein under such rules and conditions as he may prescribe.

"(3) No absolute right to practise shifting cultivation shall be deemed to be conferred by any such local rule or order as is referred to in sub-section (1), or by any order made by the Forest Settlement-officer under that sub-section permitting such practice; and, except with the previous sanction of the Local Government, such cultivation shall only be practised by the persons to whom such permission is granted."

[Regulation VI, 1887, Chaps. V and VI.]

Amendment of Chapters VII and VIII, Act VII, 1878.

6. (1) In the heading of Chapter VII of the said Act, for the words "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE" shall be substituted.

(2) In section 39, after the word "timber" in both places where the word occurs, the words "or other forest-produce" shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words "and other" the words "or other" shall be substituted.

Amendment of section 67, Act VII, 1878.

7. For the first paragraph of section 67 of the said Act, beginning with the words "The Local Government" and ending with the words "as estimated by such officer," the following shall be substituted, namely:—

"The Local Government may from time to time, by notification in the local official Gazette, empower any Forest-officer by name, or as holding an office,—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence under section 61 or section 62, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Act as if it were an arrear of land-revenue, and

(b) to release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer:

Provided, with respect to clause (a), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

Addition of new section after section 83, Act VII, 1878.

8. After section 83 of the said Act the following section shall be added, namely:—

Recovery of penalties due under bond.

"84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, such duty or act shall be deemed to be a public duty or an act in which the public are interested, as the case may be, within the meaning of section 74 of the Indian Contract Act, 1872, and upon breach of the condition of such instrument the whole sum mentioned therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of land-revenue."

Burma Forest Act, 1881.

Amendment of section 3, Act XIX, 1881.

9. (1) For the definition of "tree" in section 3 of the Burma Forest Act, 1881, the following shall be substituted, namely:—

"'tree' includes bamboos, stumps, brushwood and canes:".

(2) For the definition of "timber" in the same section the following shall be substituted, namely:—

"'timber' includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use:".

(3) For the definition of "forest-produce" in the same section the following shall be substituted, namely:—

"'forest-produce' includes—

(a) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(b) the following when found in, or brought from, a forest; that is to say—

(i) plants not being trees, and all parts or produce of such plants,

(ii) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(iii) peat, surface-soil, rock and minerals (including mineral oils and all products of mines or quarries):".

Amendment of Chapters V and VI, Act XIX, 1881.

10. (1) In the heading of Chapter V of the said Act, for the words "OF THE DUTY ON TIMBER" the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE" shall be substituted.

(2) In sections 39, 41 and 42, after the word "timber", wherever it occurs, the words "or other forest-produce" shall be inserted.

(3) Throughout section 43, after the word "timber", except in the first paragraph where the word first occurs and in clauses (e), (i), (l) and (m), the words "or other forest-produce" shall be inserted.

Amendment of section 66, Act XIX, 1881.

11. For the first paragraph of section 66 of the said Act, beginning with the words "Any Forest-officer specially empowered in this behalf" and ending with the words

"as estimated by such officer", the following shall be substituted, namely :—

"Any Forest-officer specially empowered in this behalf—

(*a*) may accept from any person reasonably suspected of having committed any forest-offence, other than an offence under section 61 or section 62, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Act as if it were an arrear of land-revenue, and

(*b*) where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer:

Provided, with respect to clause (*a*), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

Addition of new section after section 80, Act XIX, 1881.

12. After section 80 of the said Act the following section shall be added, namely :—

I, 1878, "81. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, such duty or act shall be deemed to be a public duty or an act in which the public are interested, as the case may be, within the meaning of section 74 of the Indian Contract Act, 1872; and upon breach of the condition of such instrument the whole sum mentioned therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of land-revenue."

Recovery of penalties due under bond.

1872.

Upper Burma Forest Regulation, 1887.

Amendment of section 2, Regulation VI, 1887.

1887. 13. (*1*) For the definition of "tree" in clause (*2*) of section 2 of the Upper Burma Forest Regulation, 1887, the following shall be substituted, namely :—

"(*2*) 'tree' includes bamboos, stumps, brushwood and canes :".

(*2*) For the definition of "timber" in clause (*3*) of the same section the following shall be substituted, namely :—

"(*3*) 'timber' includes trees when they have fallen or been felled, and all wood, whether the wood is in log or has been shaped or hollowed, or been converted into charcoal, or been applied to any other use :".

(*3*) For the definition of "forest-produce" in clause (*4*) of the same section the following shall be substituted, namely :—

"(*4*) 'forest-produce' includes—

(*a*) trees, and timber, caoutchouc, catechu, wood-oil, resin, varnish, bark, leaves, flowers and fruits, and all other parts or produce of trees; and

(*b*) the following when found in, or brought from, a forest; that is to say—

(*i*) plants not being trees, and all parts or produce of such plants,

(*ii*) animals, and skins, tusks, horns, silk, honey, wax and lac, and all other parts or produce of animals, and

(*iii*) peat, surface-soil, rock and minerals (including mineral oils and all products of mines or quarries) :".

Amendment of section 62, Regulation VI, 1887.

14. For sub-section (*1*) of section 62 of the said Regulation the following shall be substituted, namely :— [Act XIX, 1881, s. 66.

"(*1*) Any Forest-officer specially empowered in this behalf—

(*a*) may accept from any person reasonably suspected of having committed any forest-offence, other than an offence under section 58 or section 59, a sum of money by way of compensation for any damage which may have been committed or for the evasion or attempted evasion of the payment of any money which would, if not paid when due, be recoverable under this Regulation as if it were an arrear of revenue, and

(*b*) where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer :

Provided, with respect to clause (*a*), that the sum of money to be accepted by way of compensation may extend to, but shall not exceed, ten times the value of the forest-produce which has been damaged, or ten times the amount of the money of which the payment has been evaded or attempted to be evaded."

Addition of new section after section 78, Regulation VI, 1887.

15. After section 78 of the said Regulation the following section shall be added, namely :—

Recovery of penalties due under bond.

"79. When any person, in compliance with any rule under this Regulation, binds himself by any instrument to perform any duty or act, such duty or act shall be deemed to be a public duty or an act in which the public are interested, as the case may be, within the meaning of section 74 of the Indian Contract Act, 1872; and upon breach of the condition of such instrument the whole sum mentioned therein as the amount to be paid in case of such breach may be recovered from him as if it were an arrear of revenue." [Act I, 18[illegible] s. 25.] IX of 1872

STATEMENT OF OBJECTS AND REASONS.

THE expediency of amending the Indian Forest Act, VII of 1878, has for several years past been constantly brought to the notice of the Government of India. Since the date of its enactment, several other Forest Acts, Laws and Regulations* have been passed for different parts of India. They have all been cast very much on the model of Act VII of 1878, changed only in so far as was necessary to adapt them to the pecu-

* Burma Forest Act, 1881.
Madras Forest Act, 1882.
Baluchistan Forest Law, 1886.
Berar Forest Law, 1886.
Upper Burma Forest Regulation, 1887.

liar circumstances of special localities. At the same time, defects brought out in the enforcement of Act VII of 1878 were recognized and remedied in the more recent enactments.

The present Bill has for its main object the amendment of the Forest Acts and Regulations of the Governor General in Council, so as to place forest legislation as far as possible on the same footing wherever local circumstances permit.

2. It is proposed to add to Chapter II of Act VII of 1878 the additional provisions regarding forest-settlements and shifting cultivation contained in the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887. The necessity for these provisions has been fully made out on previous occasions, and their insertion in Act VII of 1878 calls for no special explanation.

3. The sections which provide for the compounding of offences have been revised and recast. Under Act VII of 1878, only compensation for any damage which might have been committed could be accepted, while, under all Forest Laws passed between 1878 and 1886, compensation could be demanded for the offence; in the Upper Burma Forest Regulation, 1887, the compensation was again restricted to the damage done. It has been urged that most of the offences to which the section should be applied are breaches of river rules, or the evasion of payment of dues; and that, if compensation may only be accepted for damage the section is ineffective. On the other hand, it is objected that to permit the unlimited acceptance of compensation for an offence is to place too much power in the hands of the Forest-officer. The amendment now put forward suggests the assessment of compensation according to the damage done, or the dues of which payment is evaded, and prescribes that the demand shall in no case exceed ten times the value of the produce or ten times the amount of the dues.

4. In 1884 the Bombay Government brought to notice that section 41 of Act VII of 1878 was defective, and suggested its amendment on the ground that it limited the control of timber in transit to timber found in or brought from a forest, and gave no authority to require the taking out of a pass, under the rules, for trees felled on fields in the occupation of landholders, as was previously the practice. The amendment was again urged in 1887; and the Bombay Government represented that it was absolutely necessary, with a view to prevent the misappropriation of timber from Government forests, that the executive authorities should have power to control while in transit all timber, from whatever source obtained, and that, if timber brought from private holdings were to be exempted from the operation of the rules framed under section 41 of the Act, the control of timber in transit would be rendered to a great extent ineffectual; for, directly any timber was conveyed outside the forest boundaries, it could be passed off as the produce of some private holding with little risk of detection. The Bombay Forest Commission also drew attention to this subject, and strongly recommended that the section should be amended in the interests of the cultivating classes no less than in those of the Government.

The simplest way of meeting the difficulty is to modify the definitions of "timber" and "forest-produce" so as to include all parts and produce of trees, and to subject to control under section 41 all timber whether grown in a *forest or not*.

This alteration in Act VII of 1878 is in accordance with the provisions of later enactments. The Madras and Burma Forest Acts provide for the control of timber in transit, irrespective of the source whence it comes; while the Upper Burma Forest Regulation gives the same control over forest-produce of all kinds.

5. Passing over mere verbal alterations, the only other amendment requiring notice is the addition to Act VII of 1878, and to the Burma Forest Act and the Upper Burma Forest Regulation, of a section similar to section 25 of the Opium Act, I of 1878, by which power is taken to recover penalties stipulated in a bond or agreement. For the protection of State property contractors and licensees generally bind themselves to observe certain precautions or abstain from certain dangerous acts, but it has been held that this does not render them criminally liable for any damage caused to the forest by the negligence or wilful act of their agents or workmen employed in carrying out their contract or in extracting the produce covered by their license. The new section will make them responsible up to the amount to which they have agreed, and such sum will be recoverable summarily.

The 4th September, 1889. P. P. HUTCHINS.

S. HARVEY JAMES,
Secretary to the Government of India.